

ORIGINAL



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**MEMORANDUM
RECEIVED**

66ET

TO: Docket Control Center

FROM: Ernest G. Johnson
Director
Utilities Division

2008 APR 16 A 9:08

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

APR 16 2008

DATE: April 16, 2008

DOCKETED BY	<i>mn</i>
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RE: WILLOW VALLEY WATER COMPANY, INC. - REQUEST FOR EXTENSION OF COMPLIANCE DEADLINES (DOCKET NO. W-01732A-05-0532)

In Decision No. 68610, dated March 23, 2006, the Arizona Corporation Commission ("A.C.C." or "Commission") approved the application of Willow Valley Water Company, Inc. ("Willow Valley" or "Company") for extension of its Certificate of Convenience and Necessity. In issuing its decision, the Commission ordered the Company to provide filings relating to the Developer's Letter of Adequate Water Supply ("LAWS").

Specifically, Decision No. 68610 ordered that Willow Valley should file:

"copies of the Developer's Letter of Adequate Water Supply, stating that there is adequate water, no later than one year after a decision in this docket."

Based on the March 23, 2006 date of Decision No. 68610, the original Commission due date on the above items was on or about March 23, 2007.

On March 21, 2007, Willow Valley filed a motion for extension of time until March 23, 2008 for the provision of the above item. On April 4, 2007, Staff filed a Staff Report which discussed that the developer was encountering delays obtaining the LAWS due to litigation involving the Mohave Valley Irrigation and Drainage District ("MVIDD"). The Staff Report ultimately recommended that the Company request for extension be granted. On April 19, 2007, the Commission issued a Procedural Order that extended the deadline for Willow Valley to file the LAWS from March 23, 2007 to March 23, 2008.

On March 21, 2008, the Company filed an additional "Motion for Extension of Time". This new filing seeks to extend the current March 23, 2008 deadline by one year, or until March 23, 2009, for the provision of the LAWS. The application discusses the extension area and a subdivision known as "Willow Valley Estates" which consists of three parcels, known as Parcel A, Parcel B and Parcel C. The LAWS for Parcel A and Parcel B have been obtained by the Company and are included in the application as exhibits. The LAWS for Parcel C has not been obtained and represents the basis for the current request for extension of time.

In addition, the new application included a March 19, 2008 letter from Mr. G. Wayne McKellips, Jr., the Vice President of the developer, McKellips Land Corporation. His letter

reiterated the need for service and explained problems they are having with the Mohave County Planning and Zoning Department ("P&Z") review. According to the application, Track C of the Willow Valley Estates subdivision "was initiated under Mohave County's former subdivision ordinance and was grandfathered in after the new subdivision ordinance was adopted". Willow Valley states that the P&Z ultimately required the Company to resubmit the project under the new subdivision ordinance with a changed name and tract number. The process included a second pre-application process, a new preliminary plan, the production of a development agreement and several rounds of comments and re-submittals. Additionally, the Company thought that the new plan review would be expedited but that turned out not to be the case.

Overall, Mr. McKellips letter stated that "despite the best efforts of the developer the last phase of this project has been moving exceptionally slow". In support of their effort, he did state that Willow Valley has "obtained the necessary construction financing and has expended a substantial amount of time and money on legal and engineering services and has completed the initial grading and some of the infrastructure" that would serve the subdivision. Beyond that, Staff notes that the provision of the LAWS for Parcel A and Parcel B demonstrates that Willow Valley is making progress toward the completion of this Commission requirement.

Based on the application and all of the above, Staff does not object to the Company's request for an additional one year extension of time to comply with the final LAWS as required in Decision No. 68610. Staff recommends that the due date for the final LAWS relating to Parcel C of the Willow Valley Estates subdivision be extended from March 23, 2008 to March 23, 2009. Staff further recommends that no further extensions of time be granted in this matter.

EGJ:BKB:lhbm

Originator: Brian K. Bozzo

Attachment

SERVICE LIST FOR:
DOCKET NO.

WILLOW VALLEY WATER COMPANY, INC.
W-01732A-05-0532

Mr. William P. Sullivan
Mr. Michael A. Curtis
Ms. Nancy A. Mangone
Curtis, Goodwin, Sullivan, Udall & Schwab
2712 North Seventh Street
Phoenix, Arizona 85006

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Christopher C. Kempley
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

PC

COMMISSIONERS

MIKE GLEASON – Chairman

WILLIAM A. MUNDELL

JEFF HATCH-MILLER

KRISTIN K. MAYES

GARY PIERCE

2008 MAR 21 P 3:19

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR 21 2008

DOCKETED BY



IN THE MATTER OF THE APPLICATION OF
OF WILLOW VALLEY WATER COMPANY, INC.
FOR AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-01732A-05-0532

**MOTION FOR EXTENSION
OF TIME**

Willow Valley Water Company, Inc. ("Willow Valley") respectfully requests an extension of time to comply with Decision No. 68610 (March 23, 2006), as modified by the Commission's procedural order dated April 19, 2007. Specifically, Willow Valley requests that the deadline to obtain the Developer's Letter of Adequate Water Supply ("LAWS") be extended until March 23, 2009.

Willow Valley filed its application to extend its certificate of convenience and necessity ("CC&N") to include an additional 48.53 acres on July 26, 2005. According to the Application (paragraph 6), the extension area includes part of the subdivision known as "Willow Valley Estates." Willow Valley Estates consists of 3 parcels, known as parcels A, B, and C. Willow Valley included in its application the LAWS for Parcels A and B. (These are attached as Exhibits A and B to this motion). However, the Developer had not yet obtained the LAWS for Parcel C.

Staff recommended approval of the application subject to conditions, including that Willow Valley file copies of the Developer's LAWS no later than one year after the Commission's decision. The Commission adopted Staff's proposed conditions and approved the application on March 23, 2006. Thereafter, the Developer had difficulty obtaining the LAWS, and at the Developer's request, Willow Valley submitted a motion for extension of time regarding the LAWS.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 The motion attached a letter from the Developer dated March 14, 2007 (Exhibit C) describing the
2 Developer's difficulties in obtaining the LAWS for Parcel C. On April 4, 2007, Staff filed a report
3 recommending an extension of up to two years. On April 19, 2007, a Procedural Order approved
4 an extension of time of one year, until March 23, 2008.

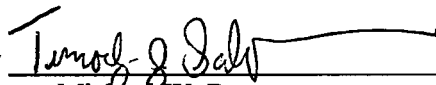
5 The Developer has encountered further difficulties, and has therefore requested that Willow
6 Valley request a further extension of time. A letter from the Developer dated March 19, 2008
7 (Exhibit D) describes the Developer's problems. In particular, the Developer has apparently had
8 difficulties with Mohave County Planning and Zoning.

9 It is Willow Valley's understanding that, for Parcel C, the Developer has completed initial
10 grading and has constructed some onsite and offsite infrastructure. In addition, the Developer
11 states that it has acquired a set aside of Colorado river water from the Mohave Valley Irrigation and
12 Drainage District to support the issuance of the LAWS for Parcel C. However, the LAWS will not
13 be issued until planning and zoning issues are resolved. For Parcel B (which has an existing
14 LAWS) homes have been constructed and some customers are receiving water service.

15 Accordingly, Willow Valley requests that the deadline to submit the LAWS for Parcel C be
16 extended one additional year until March 23, 2009.

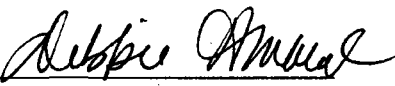
17 RESPECTFULLY SUBMITTED this 21st day of March 2008.

18 ROSHKA DEWULF & PATTEN, PLC

19
20 By 
Michael W. Patten
Timothy J. Sabo
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

21
22 Attorneys for Applicant
23
24
25
26
27

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

- 1 Original and 13 copies of the foregoing
2 filed this 21st day of March 2008 with:
- 3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007
- 7 Copy of the foregoing hand-delivered/mailed
8 this 21st day of March 2008
- 9 Lyn Farmer, Esq.
10 Chief Administrative Law Judge
11 Hearing Division
12 Arizona Corporation Commission
13 1200 West Washington
14 Phoenix, Arizona 85007
- 15 Christopher C. Kempley
16 Chief Counsel, Legal Division
17 Arizona Corporation Commission
18 1200 West Washington
19 Phoenix, Arizona 85007
- 20 Ernest G. Johnson, Esq.
21 Director, Utilities Division
22 Arizona Corporation Commission
23 1200 West Washington
24 Phoenix, Arizona 85007
- 25 Brian Bozzo
26 Compliance Manager, Utilities Division
27 Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007
- 20 By 
- 21
- 22
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- 24
- 25
- 26
- 27

EXHIBIT

"A"

ARIZONA DEPARTMENT OF WATER RESOURCES

Hydrology Division

500 North Third Street, Phoenix, Arizona 85004

Telephone (602) 417-2448

Fax (602) 417-2425



PIFE SYMINGTON
Governor

RITA P. PEARSON
Director

December 13, 1996

Mr. Roy Tanney
Chief of Subdivisions
Arizona Department of Real Estate
2910 North 44th Street
Phoenix, Arizona 85018

RE: Willow Valley Estates #20, Tract 4134-A, Mohave Co.
Water Adequacy Report #22-300085

Dear Mr. Tanney:

Pursuant to A.R.S. §45-108, the McKellips Land Corporation has provided the Department of Water Resources with information on the water supply for the Willow Valley Estates #20, Tract 4134-A, in Section 21, T18N, R22W.

Water for domestic use will be provided to each of the 27 lots in the subdivision by the Willow Valley Water Company, Inc., from wells within its franchised area.

Adequacy of the water supply was reviewed by the Department with regard to quantity, quality, and dependability. The subdivision is located in Mohave County. The water company's wells, which tap a groundwater body replenished by the Colorado River, are considered to be diverting Colorado River water. In September, 1996, the Mohave Valley Irrigation and Drainage District allocated 7.56 acre-feet of water for domestic use to Willow Valley Estates #20, Tract 4134-A, from the district's contract with the Secretary of the Interior for Colorado River water.

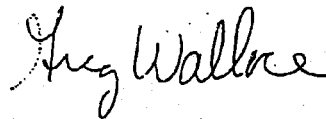
The Department of Water Resources, therefore, finds the water supply to be *adequate* to meet the subdivision's projected needs. Any change to the subdivision or its water supply plans may invalidate this decision.

This letter, which constitutes the Department of Water Resources' report on the subdivision water supply, is being forwarded to your office are required by A.R.S. §45-108. This law requires the developer to hold the recordation of the above subdivision's plats until the receipt of the Department's report on the subdivision's water supply. By copy of this report, the Mohave County Recorder officially is being notified of the developer's compliance with the law.

Page 2
Mr. Roy Tanney
Willow Valley Estates
December 13, 1996

If you have questions related to this matter, please call Genie Howell at (602) 417-2448.

Sincerely,



Greg Wallace
Chief Hydrologist

GW/EH
201563

cc: McKellips Land Corporation
Willow Valley Water Co, Inc.
Mr. Robert Johnson, MVIDD
Stadler Consulting Engineers, Inc.
Ms. Denise Burton, Stoval Engineering
Mr. G. Wayne McKellips, Jr.
Ms. Joan McCall, Mohave County Recorder
Ms. Tami Gustafson, ADEQ Technical Review Unit
Mr. Steve Rossi, ADWR
Mr. Joe Stuart, ADWR

EXHIBIT

"B"

10- 3-03;10:34AM;

;6024172422

2/ 2

ARIZONA DEPARTMENT OF WATER RESOURCES
Office of Assured and Adequate Water Supply500 N. Third Street • Phoenix, Arizona 85004-3921
Telephone (602) 417-2465 • Fax (602) 417-2467

September 25, 2003

JANET NAPOLITANO
GovernorHERB GUENTHER
DirectorRoy Tanney
Director of Real Estate Subdivisions
Arizona Department of Real Estate
2910 North 44th Street
Phoenix, AZ 85012

Water Adequacy Report #22-400791	Water provided by: Willow Valley Water Company Inc.
Subdivision Name: Willow Valley Estates Tract 4134-B	Water Type: Colorado River Water
Owner: Wayne McKellips McKellips Land Corporation Inc.	Current water depth: N/A
Number of lots: 29	Estimated 100-year depth: N/A
County: Mohave	Current decline rate: N/A
Township 18N Range 22W Section 21	Basin: Colorado River

Dear Mr. Tanney:

Pursuant to A.R.S. § 45-108, the Department of Water Resources has reviewed the available information pertaining to the water supply for the above-referenced subdivision. This letter constitutes the Department's report on the subdivision's water supply as required by A.R.S. § 45-108(A).

Adequacy of the 100-year water supply was reviewed by the Department with regard to physical, legal and continuous availability, and to determine if the water supply is of adequate quality. Information available to the Department indicates that the applicant has satisfied the adequate water supply requirements as set forth in A.A.C. R12-15-715 *et seq.* Therefore, the Department of Water Resources finds the water supply to be adequate to meet the subdivision's projected needs. Any change to the subdivision or its water supply plans may invalidate this decision.

This letter is being forwarded to your office as required by A.R.S. § 45-108. This law requires the developer to hold the recordation of the subdivision's plat until receipt of the Department's report on the subdivision's water supply. By copy of this report, the Mohave County Recorder is being officially notified of the developer's compliance with the law. If you have any questions, please contact Alan Dulaney at (602) 417-2465.

Sincerely,

Frank Putman,
Acting Assistant DirectorFF/AD/ef
700001cc: Ms. Christine Ballard, Mohave County Planning and Zoning
Ms. Joan McCall, Mohave County Recorder
Alan R. Dulaney, ADWR
Jack Lavelle, ADWR

EXHIBIT

"C"

McKELLIPS LAND CORPORATION

(Incorporated 1959)

3300 NORTH CENTRAL AVENUE
SUITE 1900
P. O. BOX 33907
PHOENIX, ARIZONA 85067

TELEPHONE (602) 264-2261

FACSIMILE (602) 277-4507

March 14, 2007

Willow Water Co., Inc.
P.O. Box 5620
Mohave Valley, AZ 86446

Re: Willow Valley Estates 20, Tract 4134B and C
Our File No. 505.0073

Dear Sir or Madam:

I am the general counsel for, and a principal in, McKellips Land Corporation (the "Company").

As you know Willow Valley Water Co., Inc. previously applied to Mohave County for an extension of its franchise and to the Arizona Corporation Commission ("ACC") for an extension of its Certificate of Convenience and Necessity to allow the company to serve certain land owned by the Company abutting the Colorado River, including two phases (Tracts B and C) of the subdivision known as Willow Valley Estates 20, Tract 4134 (the "Subdivision") that were developed by McKellips Land Corporation partially on accretion land located outside of the water company's original certificated area. The franchise extension was approved by Mohave County and the ACC order (Decision No. 68610) was entered on March 23, 2006 approving the CC&N extension. However, the ACC order was conditioned upon the water company filing with the commission within one year of an Order (i) a copy of the developer's main extension agreement for water facilities for the extension area and (ii) a copy of the Water Adequacy Report from the Arizona Department of Water Resources.

The Company has main extension agreements for Tracts B and C and a Water Adequacy Report for Tract B, copies of which have been provided to you, but it has not yet been able to obtain a Water Adequacy Report for Tract C for a number of reasons totally outside of its control.

As you know, we have had some difficulty in obtaining a required compliance report regarding the water company from the Arizona Department of Environmental Quality (in Flagstaff). In addition, the Mohave Valley Irrigation & Drainage District which provides the contract Colorado River water required for the development was in a state of disarray for some period of time. There was a recall election in 2005 and a new Board of Directors for the District was elected. The Company obtained its preliminary set-aside of water from the new board in October of 2005. Thereafter, a lawsuit, which ended up in the Arizona Supreme Court, resulted in the new board being disqualified and all its acts called into question (including our set-aside). Eventually, the set-aside was terminated and we had to reapply. On March 6th of this month the Company was granted a new set-aside by the current board, so we are now in a position to move forward again to obtain the Water Adequacy Report for Tract C which is the last phase of the Subdivision.

Willow Water Co., Inc.
March 14, 2007
Page 2

The Lots in Tract B have all been sold and water is currently being served to lots in Tract B. We certainly would not want to be in the position of having the CC&N for that portion of the subdivision revoked and we are ready to move ahead again with Tract C. Therefore, we respectfully request that as soon as possible, and no later than March 22, 2007, you apply for an extension of the time within which to satisfy the conditions in the Commission Order. Let me know if you need anything further from the Company.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "G. Wayne McKellips, Jr.", written in a cursive style.

G. Wayne McKellips, Jr.
Vice President/General Counsel

EXHIBIT

"D"

McKELLIPS LAND CORPORATION

(Incorporated 1959)

233 W. ROYAL PALM ROAD
PHOENIX, ARIZONA 85021

TELEPHONE (602) 999-3853

March 19, 2008

Willow Valley Water Co., Inc.
P.O. Box 5620
Mohave Valley, AZ 86446

Re: Willow Valley Estates 21, Tract 4228
(formerly, Willow Valley Estates 20, Tract 4134-C)
My File No. 505.0073

Dear Sir or Madam:

I am the general counsel for, and a principal in, McKellips Land Corporation (the "Company").

As you know Willow Valley Water Co., Inc. previously applied to the county for an extension of its franchise and to the ACC for an extension of its CC&N to allow the company to serve certain land owned by the Company abutting the Colorado River, including portions of two subdivisions, Willow Valley Estates 20, Tract 4134B & C (the "Subdivision") that were developed by McKellips Land Corporation partially on accretion land located outside of the water company's original certificated area. The franchise extension was approved by Mohave County and the Arizona Corporation Commission ("ACC") order (Decision No. 68610) was entered on March 23, 2006. However, the ACC order was conditioned upon the water company filing with the commission within one year of the Order (i) a copy of the developer's main extension agreement for water facilities for the extension area and (ii) a copy of the Water Adequacy Report from the Arizona Department of Water Resources.

The Company has an executed main extension agreement for Tract B and a main extension for Tract C was submitted to you but I do not know if it has been executed. In any event it will have to be amended because of a change in the name of Tract C as described below. A Water Adequacy Report for Tract B has been issued but the Company has not yet been able to obtain a Water Adequacy Report from Tract C for a number of reasons which are set forth below.

Tract C of the Subdivision was initiated under Mohave County's former subdivision ordinance and was grandfathered in after the new county subdivision ordinance was adopted.

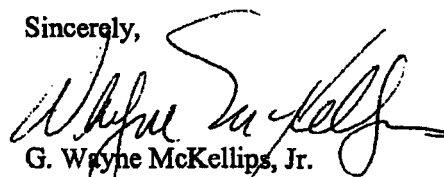
Willow Valley Water Co., Inc.
P.O. Box 5620
Mohave Valley, AZ 86446
March 19, 2008
Page 2

However, because the developer was unable to complete the project within the required time or to get an extension, the Mohave County Planning and Zoning Department ("P&Z") required the Company to resubmit the project under the new subdivision ordinance and has changed the name and tract number. Tract C of the Subdivision is now known as Willow Valley Estates 21, Tract 4228, but is the same 24-lot subdivision that was formerly known as Willow Valley Estates 20, Tract 4134-C, for which a 10.1 acre foot water allocation was initially granted on October 4, 2005, by the Mohave Valley Irrigation & Drainage District (the "District") and thereafter extended.

Despite the best efforts of the developer the last phase of this project has been moving exceptionally slow. We completed the second pre-application process at a meeting May 17, 2007, and submitted a new preliminary plan and accompanying documentation. P&Z did not provide us with a required development agreement until July 5, 2007, which we immediately signed and returned on July 17, 2007. On July 27, 2007, the county finally provided us with comments (requests for changes and additional documentation) to the preliminary plan and a new tract number and approved the name so we could continue with the process. P&Z provided additional comments on August 23, 2007, and September 11, 2007. On December 21, 2007, we resubmitted the preliminary plan and addressed all comments. P&Z then submitted additional comments on February 8, 2008, and our engineering firm is currently working on these comments for re-submittal within the next week or two. Our engineers have also prepared a final plan for submittal when the preliminary plan is finally approved and have prepared a draft of the improvement plans. Because this subdivision was submitted previously under a different tract number and P&Z had previously reviewed both the preliminary and final plans, we thought that the review of the new plans would be expedited but that has turned out not to be the case and we seem to find ourselves at the end of the line again. The company has obtained the necessary construction financing and has expended a substantial amount of time and money on legal and engineering services and has completed the initial grading and some of the infrastructure that will service this subdivision.

Please consider this a request that you immediately apply for an extension of the time within which to satisfy the conditions in the commission Order. If you need anything further or have any questions please contact me or our engineers, ARQ Engineering, LLC.

Sincerely,



G. Wayne McKellips, Jr.
Vice President

Willow Valley Water Co., Inc.
P.O. Box 5620
Mohave Valley, AZ 86446
March 19, 2008
Page 3

cc: (by electronic transmission)

Ms. Julie Blank
Ms. Robin Bain
Global Water Resources

Timothy J. Sabo
Roshka DeWulf & Patten PLC

Mr. Kenneth L. Walter
McKellips Land Corporation

Mr. Larry Morse
ARQ Engineering, LLC
3860 Frontage Road, Suite 20
Bullhead City, AZ 86442